

A bill for an act

relating to energy; providing for energy conservation; regulating utility rates; removing prohibition on issuing certificate of need for new nuclear power plant; providing for various Legislative Energy Commission studies; regulating utilities; amending Minnesota Statutes 2008, sections 216A.03, subdivision 6, by adding a subdivision; 216B.16, subdivisions 2, 6c, 7b, by adding a subdivision; 216B.1645, subdivision 2a; 216B.169, subdivision 2; 216B.1691, subdivision 2a; 216B.23, by adding a subdivision; 216B.241, subdivisions 1c, 5a, 9; 216B.2411, subdivisions 1, 2; 216B.2424, subdivision 5a; 216B.243, subdivisions 3b, 8, 9; 216C.11; proposing coding for new law in Minnesota Statutes, chapter 216C; repealing Laws 2007, chapter 3, section 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 216A.03, subdivision 6, is amended to read:

Subd. 6. **Record of proceedings.** An audio magnetic or audio electronic recording device shall be used to keep a record of all proceedings before the commission ~~unless the commission provides a hearing reporter to record the proceeding.~~

Sec. 2. Minnesota Statutes 2008, section 216A.03, is amended by adding a subdivision to read:

Subd. 6a. **Hearing reporter.** A magnetically or electronically recorded record is not required if the commission requires a hearing reporter to record the proceeding. The commission may delegate to the executive secretary authority to require hearing reporter services. The cost of hearing reporter services must be borne by the utility, telephone company, or telecommunications carrier that is the subject of the proceeding. If more than one company is the subject of a proceeding, the commission or, if the commission so

2.1 delegates, the executive secretary, shall determine how the hearing reporter costs are to
2.2 be allocated for the proceeding.

2.3 Sec. 3. Minnesota Statutes 2008, section 216B.16, subdivision 2, is amended to read:

2.4 Subd. 2. **Suspension of proposed rate; hearing; final determination defined.** (a)
2.5 Whenever there is filed with the commission a schedule modifying or resulting in a change
2.6 in any rates then in force as provided in subdivision 1, the commission may suspend the
2.7 operation of the schedule by filing with the schedule of rates and delivering to the affected
2.8 utility a statement in writing of its reasons for the suspension at any time before the rates
2.9 become effective. The suspension shall not be for a longer period than ten months beyond
2.10 the initial filing date except as provided in this subdivision or subdivision 1a.

2.11 (b) During the suspension the commission shall determine whether all questions of
2.12 the reasonableness of the rates requested raised by persons deemed interested or by the
2.13 department can be resolved to the satisfaction of the commission. If the commission
2.14 finds that all significant issues raised have not been resolved to its satisfaction, or upon
2.15 petition by ten percent of the affected customers or 250 affected customers, whichever is
2.16 less, it shall refer the matter to the Office of Administrative Hearings with instructions
2.17 for a public hearing as a contested case pursuant to chapter 14, except as otherwise
2.18 provided in this section.

2.19 (c) The commission may order that the issues presented by the proposed rate
2.20 changes be bifurcated into two separate hearings as follows: (1) determination of the
2.21 utility's revenue requirements and (2) determination of the rate design. Upon issuance of
2.22 both administrative law judge reports, the issues shall again be joined for consideration
2.23 and final determination by the commission.

2.24 (d) All prehearing discovery activities of state agency intervenors shall be
2.25 consolidated and conducted by the Department of Commerce.

2.26 (e) If the commission does not make a final determination concerning a schedule of
2.27 rates within ten months after the initial filing date, the schedule shall be deemed to have
2.28 been approved by the commission; except if:

2.29 (1) an extension of the procedural schedule has been granted under paragraph (f) or
2.30 subdivision 1a, in which case the schedule of rates is deemed to have been approved by
2.31 the commission on the last day of the extended period of suspension; or

2.32 (2) a settlement has been submitted to and rejected by the commission and the
2.33 commission does not make a final determination concerning the schedule of rates, the
2.34 schedule of rates is deemed to have been approved 60 days after the initial or, if applicable,
2.35 the extended period of suspension.

(f) If the commission finds that it has insufficient time during the suspension period to make a final determination of a case involving changes in general rates because of the need to make a final determination of ~~another previously filed~~ any pending case involving changes in general rates under this section or section 237.075, the commission may extend the suspension period to ~~the extent necessary to allow itself 20 working days to~~ allow up to a total of 90 additional calendar days to make the final determination ~~after it has made a final determination in the previously filed case~~. An extension of the suspension period under this paragraph does not alter the setting of interim rates under subdivision 3.

(g) For the purposes of this section, "final determination" means the initial decision of the commission and not any order which may be entered by the commission in response to a petition for rehearing or other further relief. The commission may further suspend rates until it determines all those petitions.

Sec. 4. Minnesota Statutes 2008, section 216B.16, subdivision 6c, is amended to read:

Subd. 6c. **Incentive plan for energy conservation improvement.** (a) The commission may order public utilities to develop and submit for commission approval incentive plans that describe the method of recovery and accounting for utility conservation expenditures and savings. In developing the incentive plans the commission shall ensure the effective involvement of interested parties.

(b) In approving incentive plans, the commission shall consider:

(1) whether the plan is likely to increase utility investment in cost-effective energy conservation;

(2) whether the plan is compatible with the interest of utility ratepayers and other interested parties;

(3) whether the plan links the incentive to the utility's performance in achieving cost-effective conservation; and

(4) whether the plan is in conflict with other provisions of this chapter.

(c) The commission may set rates to encourage the vigorous and effective implementation of utility conservation programs. The commission may:

(1) increase or decrease any otherwise allowed rate of return on net investment based upon the utility's skill, efforts, and success in conserving energy;

(2) share between ratepayers and utilities the net savings resulting from energy conservation programs to the extent justified by the utility's skill, efforts, and success in conserving energy; and

(3) ~~compensate the utility for earnings lost as a result of its conservation programs~~ adopt any mechanism that satisfies the criteria of this subdivision.

Sec. 5. Minnesota Statutes 2008, section 216B.16, subdivision 7b, is amended to read:

Subd. 7b. **Transmission cost adjustment.** (a) Notwithstanding any other provision of this chapter, the commission may approve a tariff mechanism for the automatic annual adjustment of charges for the Minnesota jurisdictional costs of (i) new transmission facilities that have been separately filed and reviewed and approved by the commission under section 216B.243 or are certified as a priority project or deemed to be a priority transmission project under section 216B.2425; and (ii) charges incurred by a utility that accrue from other transmission owners' regionally planned transmission projects that have been determined by the Midwest Independent System Operator to benefit the utility, as provided for under a federally approved tariff.

(b) Upon filing by a public utility or utilities providing transmission service, the commission may approve, reject, or modify, after notice and comment, a tariff that:

(1) allows the utility to recover on a timely basis the costs net of revenues of facilities approved under section 216B.243 or certified or deemed to be certified under section 216B.2425 or exempt from the requirements of section 216B.243;

(2) allows the charges incurred by a utility that accrue from other transmission owners' regionally planned transmission projects that have been determined by the Midwest Independent System Operator to benefit the utility, as provided for under a federally approved tariff. These charges must be reduced or offset by revenues received by the utility and by amounts the utility charges to other regional transmission owners, to the extent those revenues and charges have not been otherwise offset;

(3) allows a return on investment at the level approved in the utility's last general rate case, unless a different return is found to be consistent with the public interest;

(4) provides a current return on construction work in progress, provided that recovery from Minnesota retail customers for the allowance for funds used during construction is not sought through any other mechanism;

(5) allows for recovery of other expenses if shown to promote a least-cost project option or is otherwise in the public interest;

(6) allocates project costs appropriately between wholesale and retail customers;

(7) provides a mechanism for recovery above cost, if necessary to improve the overall economics of the project or projects or is otherwise in the public interest; and

(8) terminates recovery once costs have been fully recovered or have otherwise been reflected in the utility's general rates.

(c) A public utility may file annual rate adjustments to be applied to customer bills paid under the tariff approved in paragraph (b). In its filing, the public utility shall provide:

(1) a description of and context for the facilities included for recovery;

(2) a schedule for implementation of applicable projects;

(3) the utility's costs for these projects;

(4) a description of the utility's efforts to ensure the lowest costs to ratepayers for the project; and

(5) calculations to establish that the rate adjustment is consistent with the terms of the tariff established in paragraph (b).

(d) Upon receiving a filing for a rate adjustment pursuant to the tariff established in paragraph (b), the commission shall approve the annual rate adjustments provided that, after notice and comment, the costs included for recovery through the tariff were or are expected to be prudently incurred and achieve transmission system improvements at the lowest feasible and prudent cost to ratepayers.

Sec. 6. Minnesota Statutes 2008, section 216B.16, is amended by adding a subdivision to read:

Subd. 7d. **Central Corridor utility zone cost adjustment.** (a) The Central Corridor utility zone is the area extending from the Union Depot Station in St. Paul to the proposed multimodal station in Minneapolis along the route of the light rail transit project connecting those two points, and an area extending approximately one-quarter mile from that route and including the entire University of Minnesota, Minneapolis campus.

(b) A public utility that provides retail electric service within the Central Corridor utility zone and that is required to replace, relocate, construct, or install new facilities, may apply to the commission for approval of new facilities in the Central Corridor utility zone and facilities outside the zone that the utility demonstrates must be changed as a direct result of changes within the zone. Facilities proposed under this subdivision may include transmission facilities, distribution facilities, generation facilities, advanced technology-assisted efficiency devices, and energy storage facilities not otherwise subject to section 216B.243, or chapter 216E, 216F, or 216G. Upon approval under paragraph (c), the utility may construct and install the facilities.

(c) The commission may approve the construction and installation of facilities in the Central Corridor mass transit utility zone proposed by a utility under paragraph (b) upon a finding:

(1) that the facilities:

(i) are necessary to provide electric service;

(ii) assist future development of renewable energy, conservation, electric vehicles, and advanced technology-assisted efficiency programs and devices; or

(iii) are exploratory, experimental, or research facilities to advance the use of renewable energy, conservation, electric vehicles, and advanced technology-assisted efficiency programs and devices;

(2) that the utility has engaged in a cooperative process with affected local and state government agencies in the design, planning, or construction of the Central Corridor utility zone project and changes to utility facilities;

(3) that the utility and local units of government have made reasonable efforts to seek federal, state, or private funds that may be available to mass transit and energy projects; and

(4) that the utility has made reasonable efforts to minimize the project costs and maximize the value of the facilities to customers.

(d) Upon request of the commission, the utility shall submit periodic reports to the commission reviewing the cost and benefits of the facilities constructed within the Central Corridor utility zone and their potential applicability to other areas outside the Central Corridor utility zone.

Sec. 7. Minnesota Statutes 2008, section 216B.1645, subdivision 2a, is amended to read:

Subd. 2a. **Cost recovery for utility's renewable facilities.** (a) A utility may petition the commission to approve a rate schedule that provides for the automatic adjustment of charges to recover prudently incurred investments, expenses, or costs associated with facilities constructed, owned, or operated by a utility to satisfy the requirements of section 216B.1691, provided those facilities were previously approved by the commission under section 216B.2422 or 216B.243, or were determined by the commission to be reasonable and prudent under section 216B.243, subdivision 9. For facilities not subject to review by the commission under section 216B.2422 or 216B.243, a utility shall petition the commission for eligibility for cost recovery under this section prior to requesting cost recovery for the facility. The commission may approve, or approve as modified, a rate schedule that:

(1) allows a utility to recover directly from customers on a timely basis the costs of qualifying renewable energy projects, including:

(i) return on investment;

(ii) depreciation;

(iii) ongoing operation and maintenance costs;

(iv) taxes; and

(v) costs of transmission and other ancillary expenses directly allocable to transmitting electricity generated from a project meeting the specifications of this paragraph;

(2) provides a current return on construction work in progress, provided that recovery of these costs from Minnesota ratepayers is not sought through any other mechanism;

(3) allows recovery of other expenses incurred that are directly related to a renewable energy project, including expenses for energy storage, provided that the utility demonstrates to the commission's satisfaction that the expenses improve project economics, ensure project implementation, advance research and understanding of how storage devices may improve renewable energy projects, or facilitate coordination with the development of transmission necessary to transport energy produced by the project to market;

(4) allocates recoverable costs appropriately between wholesale and retail customers;

(5) terminates recovery when costs have been fully recovered or have otherwise been reflected in a utility's rates.

(b) A petition filed under this subdivision must include:

(1) a description of the facilities for which costs are to be recovered;

(2) an implementation schedule for the facilities;

(3) the utility's costs for the facilities;

(4) a description of the utility's efforts to ensure that costs of the facilities are reasonable and were prudently incurred; and

(5) a description of the benefits of the project in promoting the development of renewable energy in a manner consistent with this chapter.

Sec. 8. Minnesota Statutes 2008, section 216B.169, subdivision 2, is amended to read:

Subd. 2. **Renewable and high-efficiency energy rate options.** (a) ~~Each~~ A utility ~~shall~~ may offer its customers, ~~and shall advertise the offer at least annually,~~ one or more options that allow a customer to determine that a certain amount of the electricity generated or purchased on behalf of the customer is renewable energy or energy generated by high-efficiency, low-emissions, distributed generation such as fuel cells and microturbines fueled by a renewable fuel.

~~(b) Each public utility shall file an implementation plan within 90 days of July 1, 2001, to implement paragraph (a).~~

~~(c)~~ (b) Rates charged to customers must be calculated using the utility's cost of acquiring the energy for the customer and must:

(1) reflect the difference between the cost of generating or purchasing the renewable energy and the cost of generating or purchasing the same amount of nonrenewable energy; and

(2) be distributed on a per kilowatt-hour basis among all customers who choose to participate in the program.

~~(d) Implementation of these rate options may reflect a reasonable amount of lead time necessary to arrange acquisition of the energy. (c) The utility may acquire the energy demanded by customers, in whole or in part, through procuring or generating the renewable energy directly, or through the purchase of credits from a provider that has received certification of eligible power supply pursuant to subdivision 3. If a utility is not able to arrange an adequate supply of renewable or high-efficiency energy to meet its customers' demand under this section, the utility must file a report with the commission detailing its efforts and reasons for its failure.~~

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2008, section 216B.1691, subdivision 2a, is amended to read:

Subd. 2a. **Eligible energy technology standard.** (a) Except as provided in paragraph (b), each electric utility shall generate or procure sufficient electricity generated by an eligible energy technology to provide its retail customers in Minnesota, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that at least the following standard percentages of the electric utility's total retail electric sales to retail customers in Minnesota are generated by eligible energy technologies by the end of the year indicated:

- | | | |
|-----|------|-------------|
| (1) | 2012 | 12 percent |
| (2) | 2016 | 17 percent |
| (3) | 2020 | 20 percent |
| (4) | 2025 | 25 percent. |

(b) An electric utility that owned a nuclear generating facility as of January 1, 2007, must meet the requirements of this paragraph rather than paragraph (a). An electric utility subject to this paragraph must generate or procure sufficient electricity generated by an eligible energy technology to provide its retail customers in Minnesota or the retail customer of a distribution utility to which the electric utility provides wholesale electric service so that at least the following percentages of the electric utility's total retail electric sales to retail customers in Minnesota are generated by eligible energy technologies by the end of the year indicated:

9.1	(1)	2010	15 percent
9.2	(2)	2012	18 percent
9.3	(3)	2016	25 percent
9.4	(4)	2020	30 percent.

9.5 Of the 30 percent in 2020, at least 25 percent must be generated by solar energy or
9.6 wind energy conversion systems and the remaining five percent by other eligible energy
9.7 technology. Of the 25 percent that must be generated by wind or solar, no more than
9.8 one percent may be solar generated and the remaining 24 percent or greater must be
9.9 wind generated.

9.10 Sec. 10. Minnesota Statutes 2008, section 216B.23, is amended by adding a
9.11 subdivision to read:

9.12 Subd. 1a. **Authority to issue refund.** On determining that a public utility has
9.13 charged a rate in violation of this chapter, a commission rule, or a commission order, the
9.14 commission, after conducting a proceeding, may require the public utility to refund to its
9.15 customers, in a manner approved by the commission, any revenues the commission finds
9.16 were collected as a result of the unlawful conduct. Any refund authorized by this section
9.17 is permitted in addition to any remedies authorized by section 216B.16 or any other law
9.18 governing rates. Exercising authority under this section does not preclude the commission
9.19 from pursuing penalties under sections 216B.57 to 216B.61 for the same conduct. Nothing
9.20 in this section shall be construed as allowing retroactive ratemaking. In addition, nothing
9.21 in this section shall be construed to allow refunds based on claims that prior or current
9.22 approved rates have been unjust, unreasonable, unreasonably preferential, discriminatory,
9.23 insufficient, inequitable, or inconsistent in application to a class of customers. Moreover,
9.24 nothing in this section shall be construed to allow refunds based on claims that approved
9.25 rates have not encouraged energy conservation, encouraged renewable energy use, or
9.26 furthered the goals of section 216B.164, 216B.241, or 216C.05. A refund under this
9.27 subdivision shall not apply to revenues collected more than six years prior to the date of
9.28 the notice of the commission proceeding.

9.29 Sec. 11. Minnesota Statutes 2008, section 216B.241, subdivision 1c, is amended to
9.30 read:

9.31 Subd. 1c. **Energy-saving goals.** (a) The commissioner shall establish energy-saving
9.32 goals for energy conservation improvement expenditures and shall evaluate an energy
9.33 conservation improvement program on how well it meets the goals set.

(b) Each individual utility and association shall have an annual energy-savings goal equivalent to 1.5 percent of gross annual retail energy sales unless modified by the commissioner under paragraph (d). The savings goals must be calculated based on the most recent three-year weather normalized average. A utility or association may elect to carry forward energy savings in excess of 1.5 percent for a year to the succeeding three calendar years, except that savings from electric utility infrastructure projects allowed under paragraph (d) may be carried forward for five years. A particular energy savings can be used only for one year's goal.

(c) The commissioner must adopt a filing schedule that is designed to have all utilities and associations operating under an energy-savings plan by calendar year 2010.

(d) In its energy conservation improvement plan filing, a utility or association may request the commissioner to adjust its annual energy-savings percentage goal based on its historical conservation investment experience, customer class makeup, load growth, a conservation potential study, or other factors the commissioner determines warrants an adjustment. The commissioner may not approve a plan that provides for an annual energy-savings goal of less than one percent of gross annual retail energy sales from energy conservation improvements.

A utility or association may include in its energy conservation plan energy savings from electric utility infrastructure projects approved by the commission under section 216B.1636 or waste heat recovery converted into electricity projects that may count as energy savings in addition to the minimum energy-savings goal of at least one percent for energy conservation improvements. Electric utility infrastructure projects must result in increased energy efficiency greater than that which would have occurred through normal maintenance activity.

(e) An energy-savings goal is not satisfied by attaining the revenue expenditure requirements of subdivisions 1a and 1b, but can only be satisfied by meeting the energy-savings goal established in this subdivision.

(f) An association or utility is not required to make energy conservation investments to attain the energy-savings goals of this subdivision that are not cost-effective even if the investment is necessary to attain the energy-savings goals. For the purpose of this paragraph, in determining cost-effectiveness, the commissioner shall consider the costs and benefits to ratepayers, the utility, participants, and society. In addition, the commissioner shall consider the rate at which an association or municipal utility is increasing its energy savings and its expenditures on energy conservation.

(g) On an annual basis, the commissioner shall produce and make publicly available a report on the annual energy savings and estimated carbon dioxide reductions achieved

by the energy conservation improvement programs for the two most recent years for which data is available. The commissioner shall report on program performance both in the aggregate and for each entity filing an energy conservation improvement plan for approval or review by the commissioner.

(h) By January 15, 2010, the commissioner shall report to the legislature whether the spending requirements under subdivisions 1a and 1b are necessary to achieve the energy-savings goals established in this subdivision.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 12. Minnesota Statutes 2008, section 216B.241, subdivision 5a, is amended to read:

Subd. 5a. **Qualifying solar energy project.** (a) A utility or association may include in its conservation plan programs for the installation of qualifying solar energy projects as defined by section 216B.2411 to the extent of the spending allowed for generation projects by section 216B.2411. The cost-effectiveness of a qualifying solar energy project may be determined by a different standard than for other energy conservation improvements under this section if the commissioner determines it is in the public interest to do so to encourage solar energy projects. Energy savings from qualifying solar energy projects may not be counted toward the minimum energy-savings goal of at least one percent for energy conservation improvements required under subdivision 1c, but may, if the conservation plan is approved:

(1) be counted toward energy savings above that minimum percentage; and

(2) ~~be considered when establishing performance incentives under section 216B.241, subdivision 2c~~ be eligible for a performance incentive under section 216B.16, subdivision 6c, or 216B.241, subdivision 2c, that is distinct from the incentive for energy conservation and is based on the competitiveness and cost-effectiveness of solar projects in relation to other potential solar projects available to the utility.

(b) Qualifying solar energy projects may not be considered when establishing demand-side management targets under section 216B.2422, 216B.243, or any other section of this chapter.

Sec. 13. Minnesota Statutes 2008, section 216B.241, subdivision 9, is amended to read:

Subd. 9. **Building performance standards; Sustainable Building 2030.** (a) The purpose of this subdivision is to establish cost-effective energy-efficiency performance standards for new and substantially reconstructed commercial, industrial, and institutional buildings that can significantly reduce carbon dioxide emissions by lowering energy use in

new and substantially reconstructed buildings. For the purposes of this subdivision, the establishment of these standards may be referred to as Sustainable Building 2030.

(b) The commissioner shall contract with the Center for Sustainable Building Research at the University of Minnesota to coordinate development and implementation of energy-efficiency performance standards, strategic planning, research, data analysis, technology transfer, training, and other activities related to the purpose of Sustainable Building 2030. The commissioner and the Center for Sustainable Building Research shall, in consultation with utilities, builders, developers, building operators, and experts in building design and technology, develop a Sustainable Building 2030 implementation plan that must address, at a minimum, the following issues:

- (1) training architects to incorporate the performance standards in building design;
- (2) incorporating the performance standards in utility conservation improvement programs; and
- (3) developing procedures for ongoing monitoring of energy use in buildings that have adopted the performance standards.

The plan must be submitted to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy by July 1, 2009.

(c) Sustainable Building 2030 energy-efficiency performance standards must be firm, quantitative measures of total building energy use and associated carbon dioxide emissions per square foot for different building types and uses, that allow for accurate determinations of a building's conformance with a performance standard. The energy-efficiency performance standards must be updated every three or five years to incorporate all cost-effective measures. The performance standards must reflect the reductions in carbon dioxide emissions per square foot resulting from actions taken by utilities to comply with the renewable energy standards in section 216B.1691. The performance standards should be designed to achieve reductions equivalent to the following reduction schedule, measured against energy consumption by an average building in each applicable building sector in 2003: (1) 60 percent in 2010; (2) 70 percent in 2015; (3) 80 percent in 2020; and (4) 90 percent in 2025. A performance standard must not be established or increased absent a conclusive engineering analysis that it is cost-effective based upon established practices used in evaluating utility conservation improvement programs.

(d) The annual amount of the contract with the Center for Sustainable Building Research is up to \$500,000. The Center for Sustainable Building Research shall expend no more than \$150,000 of this amount each year on administration, coordination, and oversight activities related to Sustainable Building 2030. The balance of contract funds

must be spent for subcontracts with not-for-profit energy organizations, architecture and engineering firms, and other qualified entities to undertake technical projects and activities in support of Sustainable Building 2030. The primary work to be accomplished each year by qualified technical experts under subcontracts is the development and thorough justification of recommendations for specific energy-efficiency performance standards.

Additional work may include:

(1) research, development, and demonstration of new energy-efficiency technologies and techniques suitable for commercial, industrial, and institutional buildings;

(2) analysis and evaluation of practices in building design, construction, commissioning and operations, and analysis and evaluation of energy use in the commercial, industrial, and institutional sectors;

(3) analysis and evaluation of the effectiveness and cost-effectiveness of Sustainable Building 2030 performance standards, conservation improvement programs, and building energy codes;

(4) development and delivery of training programs for architects, engineers, commissioning agents, technicians, contractors, equipment suppliers, developers, and others in the building industries; and

(5) analyze and evaluate the effect of building operations on energy use.

(e) The commissioner shall require utilities to develop and implement conservation improvement programs that are expressly designed to achieve energy efficiency goals consistent with the Sustainable Building 2030 performance standards. These programs must include offerings of design assistance and modeling, financial incentives, and the verification of the proper installation of energy-efficient design components in new and substantially reconstructed buildings. A utility's design assistance program must consider the strategic planting of trees and shrubs around buildings as an energy conservation strategy for the designed project. A utility making an expenditure under its conservation improvement program that results in a building meeting the Sustainable Building 2030 performance standards may claim the energy savings toward its energy-savings goal established in subdivision 1c.

(f) The commissioner shall report to the legislature every three years, beginning January 15, 2010, on the cost-effectiveness and progress of implementing the Sustainable Building 2030 performance standards and shall make recommendations on the need to continue the program as described in this section.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 14. Minnesota Statutes 2008, section 216B.2411, subdivision 1, is amended to read:

Subdivision 1. **Generation projects.** (a) Any municipality or rural electric association providing electric service and subject to section 216B.241 may, and each public utility may, use five percent of the total amount to be spent on energy conservation improvements under section 216B.241, on:

(1) projects in Minnesota to construct an electric generating facility that utilizes eligible renewable energy sources as defined in subdivision 2, such as methane or other combustible gases derived from the processing of plant or animal wastes, biomass fuels such as short-rotation woody or fibrous agricultural crops, or other renewable fuel, as its primary fuel source;

(2) projects in Minnesota to install a distributed generation facility of ten megawatts or less of interconnected capacity that is fueled by natural gas, renewable fuels, or another similarly clean fuel; or

(3) projects in Minnesota to install a qualifying solar energy project as defined in subdivision 2.

(b) A municipality, rural electric association, or public utility that offers a program to customers to promote installing qualifying solar energy projects may request authority from the commissioner to exceed the five percent limit in paragraph (a), but not to exceed ten percent, to meet customer demand for installation of qualifying solar energy projects. In considering this request, the commissioner shall consider customer interest in qualifying solar energy and the impact on other customers.

(c) For public utilities, as defined under section 216B.02, subdivision 4, projects under this section must be considered energy conservation improvements as defined in section 216B.241. For cooperative electric associations and municipal utilities, projects under this section must be considered load-management activities described in section 216B.241, subdivision 1.

Sec. 15. Minnesota Statutes 2008, section 216B.2411, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision and section 216B.241, subdivision 1, have the meanings given them.

(b) "Eligible renewable energy sources" means fuels and technologies to generate electricity through the use of any of the resources listed in section 216B.1691, subdivision 1, paragraph (a), except that the incineration of wastewater sludge is not an eligible

15.1 renewable energy source, "biomass" has the meaning provided under paragraph (c), and
15.2 "solar" must be from a qualified solar energy project as defined in paragraph (d).

15.3 (c) "Biomass" includes:

15.4 (1) methane or other combustible gases derived from the processing of plant or
15.5 animal material;

15.6 (2) alternative fuels derived from soybean and other agricultural plant oils or animal
15.7 fats;

15.8 (3) combustion of barley hulls, corn, soy-based products, or other agricultural
15.9 products;

15.10 (4) wood residue from the wood products industry in Minnesota or other wood
15.11 products such as short-rotation woody or fibrous agricultural crops;

15.12 (5) landfill gas;

15.13 (6) the predominantly organic components of wastewater effluent, sludge, or related
15.14 byproducts from publicly owned treatment works; and

15.15 (7) mixed municipal solid waste, and refuse-derived fuel from mixed municipal
15.16 solid waste.

15.17 (d) "Qualifying solar energy project" means a qualifying solar thermal project or
15.18 qualifying solar electric project.

15.19 (e) "Qualifying solar thermal project" means a flat plate or evacuated tube that meets
15.20 the requirements of section 216C.25 with a fixed orientation that collects the sun's radiant
15.21 energy and transfers it to a storage medium for distribution as energy to heat or cool air or
15.22 water, but does not include equipment used to heat water at a residential property (1) for
15.23 domestic use if less than one-half of the energy used for that purpose is derived from the
15.24 sun or (2) for use in a hot tub or swimming pool.

15.25 (f) "Qualifying solar electric project" means solar electric equipment that meets
15.26 the requirements of section 216C.25 and includes, if applicable, related on-site energy
15.27 storage equipment, with a total peak generating capacity of 100 kilowatts or less used
15.28 for generating electricity primarily for use in a residential ~~property or small business,~~
15.29 commercial, or publicly owned building to reduce the effective electric load for that
15.30 ~~residence or small business building.~~

15.31 (g) "Residential property building" means the principal residence of a homeowner at
15.32 the time the solar equipment is placed in service.

15.33 ~~(h) "Small business" has the meaning given to it in section 645.445.~~

15.34 **EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 16. Minnesota Statutes 2008, section 216B.2424, subdivision 5a, is amended to read:

Subd. 5a. **Reduction of biomass mandate.** (a) Notwithstanding subdivision 5, the biomass electric energy mandate must be reduced from 125 megawatts to 110 megawatts.

(b) The Public Utilities Commission shall approve a request pending before the commission as of May 15, 2003, for amendments to and assignment of a power purchase agreement with the owner of a facility that uses short-rotation, woody crops as its primary fuel previously approved to satisfy a portion of the biomass mandate if the owner of the project agrees to reduce the size of its project from 50 megawatts to 35 megawatts, while maintaining an average price for energy in nominal dollars measured over the term of the power purchase agreement at or below \$104 per megawatt-hour, exclusive of any price adjustments that may take effect subsequent to commission approval of the power purchase agreement, as amended. The commission shall also approve, as necessary, any subsequent assignment or sale of the power purchase agreement or ownership of the project to an entity owned or controlled, directly or indirectly, by two municipal utilities located north of Constitutional Route No. 8, as described in section 161.114, which currently own electric and steam generation facilities using coal as a fuel and which propose to retrofit their existing municipal electrical generating facilities to utilize biomass fuels in order to perform the power purchase agreement.

(c) If the power purchase agreement described in paragraph (b) is assigned to an entity that is, or becomes, owned or controlled, directly or indirectly, by two municipal entities as described in paragraph (b), and the power purchase agreement meets the price requirements of paragraph (b), the commission shall approve any amendments to the power purchase agreement necessary to reflect the changes in project location and ownership and any other amendments made necessary by those changes. The commission shall also specifically find that:

(1) the power purchase agreement complies with and fully satisfies the provisions of this section to the full extent of its 35-megawatt capacity;

(2) all costs incurred by the public utility and all amounts to be paid by the public utility to the project owner under the terms of the power purchase agreement are fully recoverable pursuant to section 216B.1645;

(3) subject to prudence review by the commission, the public utility may recover from its Minnesota retail customers the Minnesota jurisdictional portion of the amounts that may be incurred and paid by the public utility during the full term of the power purchase agreement; and

(4) if the purchase power agreement meets the requirements of this subdivision, it is reasonable and in the public interest.

(d) The commission shall specifically approve recovery by the public utility of any and all Minnesota jurisdictional costs incurred by the public utility to improve, construct, install, or upgrade transmission, distribution, or other electrical facilities owned by the public utility or other persons in order to permit interconnection of the retrofitted biomass-fueled generating facilities or to obtain transmission service for the energy provided by the facilities to the public utility pursuant to section 216B.1645, and shall disapprove any provision in the power purchase agreement that requires the developer or owner of the project to pay the jurisdictional costs or that permit the public utility to terminate the power purchase agreement as a result of the existence of those costs or the public utility's obligation to pay any or all of those costs.

(e) Upon request by the project owner, the public utility shall agree to amend the power purchase agreement described in paragraph (b) and approved by the commission as required by paragraph (c). The amendment shall be negotiated and executed within 45 days of the effective date of this section and shall apply to prices paid after January 1, 2009. In no event shall the average price for energy in nominal dollars measured over the term of the power purchase agreement exceed \$104 per megawatt hour by more than five percent. The public utility shall request approval of the amendment by the commission within 30 days of execution of the amended power purchase agreement. The amendment is not effective until approval by the commission. The commission must act on the amendment within 90 days of submission of the request by the public utility. Upon approval of the amended power purchase agreement, the commission shall allow the public utility to recover the costs of the amended power purchase agreement, as provided in section 216B.1645.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 17. Minnesota Statutes 2008, section 216B.243, subdivision 3b, is amended to read:

Subd. 3b. ~~Nuclear power plant; new construction prohibited; relicensing~~
Additional storage of spent nuclear fuel. ~~(a) The commission may not issue a certificate of need for the construction of a new nuclear-powered electric generating plant.~~

~~(b)~~ Any certificate of need for additional storage of spent nuclear fuel for a facility seeking a license extension shall address the impacts of continued operations over the period for which approval is sought.

18.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

18.2 Sec. 18. Minnesota Statutes 2008, section 216B.243, subdivision 8, is amended to read:

18.3 Subd. 8. **Exemptions.** This section does not apply to:

18.4 (1) cogeneration or small power production facilities as defined in the Federal Power
18.5 Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and
18.6 paragraph (18), subparagraph (A), and having a combined capacity at a single site of less
18.7 than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or
18.8 any case where the commission has determined after being advised by the attorney general
18.9 that its application has been preempted by federal law;

18.10 (2) a high-voltage transmission line proposed primarily to distribute electricity to
18.11 serve the demand of a single customer at a single location, unless the applicant opts to
18.12 request that the commission determine need under this section or section 216B.2425;

18.13 (3) the upgrade to a higher voltage of an existing transmission line that serves
18.14 the demand of a single customer that primarily uses existing rights-of-way, unless the
18.15 applicant opts to request that the commission determine need under this section or section
18.16 216B.2425;

18.17 (4) a high-voltage transmission line of one mile or less required to connect a new or
18.18 upgraded substation to an existing, new, or upgraded high-voltage transmission line;

18.19 (5) conversion of the fuel source of an existing electric generating plant to using
18.20 natural gas; or

18.21 (6) the modification of an existing electric generating plant to increase efficiency,
18.22 as long as the capacity of the plant is not increased more than ten percent or more than
18.23 100 megawatts, whichever is greater; ~~or~~

18.24 ~~(7) a large energy facility that (i) generates electricity from wind energy conversion~~
18.25 ~~systems, (ii) will serve retail customers in Minnesota, (iii) is specifically intended to be~~
18.26 ~~used to meet the renewable energy objective under section 216B.1691 or addresses a~~
18.27 ~~resource need identified in a current commission-approved or commission-reviewed~~
18.28 ~~resource plan under section 216B.2422, and (iv) derives at least ten percent of the total~~
18.29 ~~nameplate capacity of the proposed project from one or more C-BED projects, as defined~~
18.30 ~~under section 216B.1612, subdivision 2, paragraph (f).~~

18.31 Sec. 19. Minnesota Statutes 2008, section 216B.243, subdivision 9, is amended to read:

18.32 Subd. 9. **Renewable energy standard facilities.** ~~The requirements of~~ This section
18.33 ~~do~~ does not apply to a wind energy conversion system or a solar electric generation
18.34 facility that is intended to be used to meet ~~or exceed~~ the obligations of section 216B.1691;

provided that, after notice and comment, the commission determines that the facility is a reasonable and prudent approach to meeting a utility's obligations under that section.

When making this determination, the commission ~~may~~ must consider:

(1) the size of the facility relative to a utility's total need for renewable resources ~~and~~;

(2) alternative approaches for supplying the renewable energy to be supplied by the proposed facility, ~~and must consider~~;

(3) the facility's ability to promote economic development, as required under section 216B.1691, subdivision 9~~2~~;

(4) the facility's ability to maintain electric system reliability ~~and consider~~;

(5) impacts on ratepayers~~2~~; and

(6) other criteria as the commission may determine are relevant.

Sec. 20. **[216C.054] ANNUAL TRANSMISSION ADEQUACY REPORT TO LEGISLATURE.**

The commissioner of commerce, in consultation with the Public Utilities Commission, shall annually by January 15 submit a written report to the chairs and the ranking minority members of the legislative committees with primary jurisdiction over energy policy that contains a narrative describing what electric transmission infrastructure is needed within the state over the next 15 years and what specific progress is being made to meet that need. To the extent possible, the report must contain a description of specific transmission needs and the current status of proposals to address that need. The report must identify any barriers to meeting transmission infrastructure needs and make recommendations, including any legislation, that are necessary to overcome those barriers. The report must be based on the best available information and must describe what assumptions are made as the basis for the report. If the commissioner determines that there are difficulties in accurately assessing future transmission infrastructure needs, the commissioner shall explain those difficulties as part of the report. The commissioner is not required to conduct original research to support the report. The commissioner may utilize information the commissioner, the commission, and the Office of Energy Security possess and utilize in carrying out their existing statutory duties related to the state's transmission infrastructure. The report must be in easily understood, nontechnical terms.

Sec. 21. Minnesota Statutes 2008, section 216C.11, is amended to read:

216C.11 ENERGY CONSERVATION INFORMATION CENTER.

The commissioner shall establish an Energy Information Center in the department's offices in St. Paul. The information center shall maintain a toll-free telephone information

service and disseminate printed materials on energy conservation topics, including but not limited to, availability of loans and other public and private financing methods for energy conservation physical improvements, the techniques and materials used to conserve energy in buildings, including retrofitting or upgrading insulation and installing weatherstripping, the projected prices and availability of different sources of energy, and alternative sources of energy.

The Energy Information Center shall serve as the official Minnesota Alcohol Fuels Information Center and shall disseminate information, printed, by the toll-free telephone information service, or otherwise on the applicability and technology of alcohol fuels.

The information center shall include information on the potential hazards of energy conservation techniques and improvements in the printed materials disseminated. The commissioner shall not be liable for damages arising from the installation or operation of equipment or materials recommended by the information center.

The information center shall use the information collected under section 216C.02, subdivision 1, to maintain a central source of information on conservation and other energy-related programs, including both programs required by law or rule and programs developed and carried on voluntarily. In particular, the information center shall compile and maintain information on policies covering disconnections or denials of fuel during cold weather adopted by public utilities and other fuel suppliers not governed by ~~Minnesota Rules, parts 7820.1500 to 7820.2300~~ section 216B.096 or 216B.097, including the number of households disconnected or denied fuel and the duration of the disconnections or denials.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 22. **LEGISLATIVE ENERGY COMMISSION; STUDY.**

The Legislative Energy Commission must study the conservation improvement program under Minnesota Statutes, section 216B.241. The study can include any aspect of the program but must include the following issues:

(1) proper credit to utilities and associations for conservation caused by utility or association activity with a focus on educational activity designed to induce behavior that causes conservation;

(2) the use of third parties to develop or implement conservation improvement plans either completely or as a supplement to utility and association activities; and

(3) a mechanism so that utilities and associations can invest in plans statewide if that produces the best conservation results.

21.1 Sec. 23. **APPLIANCE ENERGY STANDARDS; LEGISLATIVE ENERGY**
21.2 **COMMISSION.**

21.3 The Legislative Energy Commission shall analyze the adoption of state energy
21.4 use standards for appliances it determines consume a significant amount of energy
21.5 statewide and for which the state is not preempted by federal law from adopting standards.
21.6 Televisions must be one of the appliances for which a standard must be analyzed. The
21.7 analysis must include:

- 21.8 (1) consideration of the effect of the standard on the appliance market in the state;
21.9 (2) the effect of the standard on consumer costs of purchasing and operating an
21.10 appliance;
21.11 (3) technical ability to comply with a standard currently and in the future; and
21.12 (4) energy savings achievable by a standard.

21.13 Sec. 24. **LEGISLATIVE ENERGY COMMISSION; LOW-CARBON FUEL**
21.14 **STANDARD STUDY AND RECOMMENDATIONS.**

21.15 The Legislative Energy Commission shall study and make recommendations on
21.16 whether and how to implement a low-carbon fuel standard for transportation fuels used in
21.17 motor vehicles. The standard would be designed to reduce the carbon content of those
21.18 transportation fuels over time in an amount the commission determines appropriate
21.19 considering the full range of societal impacts caused by the reduction, including
21.20 environmental and economic impacts. The commission shall submit a report on the results
21.21 of the study along with legislative recommendations by January 15, 2010, to the chairs
21.22 and ranking minority members of the legislative committees with primary jurisdiction
21.23 over energy issues.

21.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

21.25 Sec. 25. **NATURAL GAS UTILITIES; INTERIM ENERGY SAVINGS PLAN.**

21.26 The commissioner of commerce may approve an energy conservation improvement
21.27 plan under Minnesota Statutes, section 216B.241, subdivision 1c, paragraph (d), that:

- 21.28 (1) is submitted to the commissioner in calendar year 2009 by a utility that provides
21.29 natural gas service at retail;
21.30 (2) governs the conservation improvements to be undertaken by the utility over the
21.31 next three-year time period; and
21.32 (3) is accompanied by a conservation potential study that specifies how the utility
21.33 may meet and exceed the minimum energy savings goal of one percent of gross annual
21.34 retail energy sales within five years of submission of the plan.

Nothing in this section precludes the commissioner from requiring additional energy conservation improvement activities and programs beyond those proposed by the utility in its proposed plan as long as those additional activities and programs meet the requirements of Minnesota Statutes, section 216B.241. The commissioner shall require all reasonable actions by the utility that will increase the likelihood of the utility meeting and exceeding the minimum one percent energy savings goal and the 1.5 percent goal as soon as reasonably feasible.

Sec. 26. **RESIDENTIAL ENERGY USE DISCLOSURE; STUDY AND REPORT.**

(a) The Legislative Energy Commission shall study the issue of disclosing the energy use of a residence to a purchaser or renter. For purposes of this section, "residence" includes single- and multiple-family dwellings, apartments, and manufactured homes. The study must include consideration of:

(1) the energy consumption information an energy supplier, including a utility, should furnish to a residential property owner;

(2) whether different types of energy use information disclosure should be required for existing and newly constructed residences;

(3) the energy use information that would be useful to a purchaser or renter of a residence; and

(4) when and to which prospective or actual purchasers or renters disclosure should be made.

(b) The commission shall convene a stakeholder group to assist in the study that must include, among others, residential builders, apartment owners, tenant advocates, manufactured home park owners, a nonprofit organization representing manufactured home park residents, utilities, real estate professionals, energy advocates, and consumers. The commission shall report the results of the study along with any recommended legislation to the chairs and ranking minority members of the committees of the legislature with primary jurisdiction over energy policy by January 15, 2010.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 27. **UTILITY RATES STUDY.**

The Public Utilities Commission, in consultation with the Office of Energy Security, shall conduct a study of automatic cost-recovery mechanisms and alternative forms of utility rate regulation. This study shall include an assessment of the impact of automatic cost-recovery mechanisms on prices charged to utility consumers compared to traditional cost-recovery mechanisms, an assessment of the impact of automatic

23.1 recovery mechanisms on the level of customer understanding of utility rates compared to
23.2 traditional cost-recovery mechanisms, and an assessment of alternative forms of utility
23.3 rate regulation that may be used in place of automatic cost-recovery mechanisms. The
23.4 study shall also address methods to improve administration and customer understanding
23.5 of automatic cost-recovery mechanisms. The commission shall submit this report to the
23.6 legislature on or before June 30, 2010. The commission may assess public utilities for
23.7 the cost of the study. The assessment is not subject to a cap on assessments provided by
23.8 section 216B.62 or any other law.

23.9 Sec. 28. **REPORT ON PROVIDING DELIVERED HOME HEATING FUEL.**

23.10 (a) A fuel oil or propane company receiving \$150,000 or more from the Low
23.11 Income Home Energy Assistance Program (LIHEAP) for the previous heating season for
23.12 deliveries to customers in the state must report the following information to the Office
23.13 of Energy Security by August 1, 2010, and August 1, 2011, for the previous heating
23.14 season on a form prepared by the office:

23.15 (1) its total number of customers during the previous heating season;

23.16 (2) all of the following separately for its residential and residential LIHEAP
23.17 customers:

23.18 (i) the number of customers refused delivery at any time during the previous heating
23.19 season. Vendors must report if they refused delivery to the same service address more than
23.20 one time during the previous heating season;

23.21 (ii) the number of customers on keep-fill during the previous heating season;

23.22 (iii) the number of full and partial pre-buy customers during the previous heating
23.23 season;

23.24 (iv) the number of customers on budget-billing or payment plans on the date of
23.25 the report;

23.26 (v) the number of customers behind on their bills on the date of the report; and

23.27 (vi) a price list of routine services that are normal and customary, including, but
23.28 not limited to:

23.29 (A) leak or pressure test fee;

23.30 (B) minimum delivery amounts and fees;

23.31 (C) special trip during business hours and nonbusiness hours;

23.32 (D) same-day delivery fee;

23.33 (E) after hours, weekend, and holiday delivery fee;

23.34 (F) next work day delivery fee; and

23.35 (G) the cost of switching tanks to a different vendor; and

24.1 (3) the number of customers on the date of the report that rent fuel tanks from the
24.2 vendor.

24.3 The Office of Energy Security must regularly track delivered heating fuel prices
24.4 throughout the year.

24.5 (b) All information reported under this section must be summary data that does not
24.6 identify any particular vendor and customer.

24.7 (c) The obligation to supply the information required by this section must be
24.8 included in the agreement between the vendor and the LIHEAP program.

24.9 (d) For the purpose of this section, "heating season" means the period from October
24.10 15 to the next April 15.

24.11 Sec. 29. **REVISOR'S INSTRUCTION.**

24.12 (a) The revisor of statutes shall replace the phrase "parts 7820.1500 to 7820.2300" in
24.13 Minnesota Rules, part 7826.0200, with the phrase "Minnesota Statutes, sections 216B.096
24.14 and 216B.097."

24.15 (b) The revisor of statutes shall replace the phrase "chapter 7820" in Minnesota
24.16 Rules, part 7826.1500, item B, with the phrase "Minnesota Statutes, sections 216B.096
24.17 and 216B.097."

24.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

24.19 Sec. 30. **REPEALER.**

24.20 Laws 2007, chapter 3, section 3, is repealed.